

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ROBERT D. RIGGS,

Plaintiff,

vs.

CCA, CROSSROADS
CORRECTIONAL FACILITY IN
SHELBY MONTANA AND ALL
EMPLOYEES LISTED IN THIS
ACTION, et al.,

Defendants.

CV 16-92-GF-BMM

ORDER

Plaintiff Robert Riggs (Riggs) is a state prisoner proceeding *pro se*. Riggs alleges that the Defendants violated his rights under the United States Constitution while he was incarcerated at the Crossroads Correctional Center (CCC) in Shelby, Montana. Riggs alleges that the Defendants violated his rights under the Eighth Amendment by being deliberately indifferent to his safety and by denying him medical care. Riggs asserts federal claims under 42 U.S.C. § 1983. Riggs also asserts state law claims of medical malpractice, negligence, and gross negligence. Riggs's claims are based on events that occurred at CCC in April 2007 and in November 2015. Riggs seeks an award of monetary damages. Riggs also requests that the Court impose criminal sanctions against the Defendants.

Riggs's Second Amended Complaint describes the Defendants as Corrections Corporation of America (CCA), CCC, and "all employees listed in this action." (Doc. 9 at 1). Riggs has named the following CCA employees in his pleadings: Warden McDonald, AW Law, Ron Stercho, Rena Bear, C/M McDuna, C/M Vantine, Capt. Mertz, Warden Berkebile, Chief Bussby, Chief Stewart, C/M Gold, U/M Wandler, U/M Christians, DOC Monitor Kenyon, Lt. Weaver, Sgt. Mohart, Warden Fender, A/W Powell, U/M Wandler, Dr. Berdecia, Seg. RNs, Seg. Doctors, Seg. C/O's, CCA Dentist, and CCA Medical staff.

United States Magistrate Judge John Johnston conducted an initial screening of Riggs's Second Amended Complaint under 28 U.S.C. § 1915 on January 22, 2018. (Doc. 10). Judge Johnston determined that all of the claims arising out of events occurring in April 2007 should be dismissed because they are time-barred by the applicable three year statute of limitations. (Doc. 10 at 6-8).

Judge Johnston determined that all claims against the unnamed defendants — Seg. RNs, Seg. Doctors, Seg. C/O's, CCA Dentist, and CCA Medical staff — should be dismissed without prejudice given that "John Defendants [are] generally not favored in federal court." (Doc. 10 at 10).

Judge Johnston determined that the claims against Dr. Berdecia for denial of medical care claim and for medical malpractice should be dismissed because no

factual basis existed to assert such claims. (Doc. 10 at 10-11). Judge Johnston noted that the Second Amended Complaint alleges only that Dr. Berdecia examined Riggs in the CCC infirmary on November 18, 2015, and that Associate Warden Powell talked Dr. Berdecia out of ordering a cat scan. (Doc. 9 at 8-9; Doc. 10 at 10-11).

Judge Johnston further determined that all of the claims seeking the imposition of criminal sanctions against the Defendants should be dismissed because such relief is not available under 42 U.S.C. § 1983. (Doc. 10 at 11-12).

Riggs did not file objections to Judge Johnston's Findings and Recommendations. The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

Accordingly, IT IS ORDERED:

1. All claims arising out of events occurring in 2007 are DISMISSED with prejudice as time-barred.
2. All claims against the unnamed defendants — Seg. RNs, Seg. Doctors,

Seg. C/O's, CCA Dentist, and CCA Medical staff — are DISMISSED without prejudice. Should Riggs learn the identities of the unnamed defendants in the future he may file a Third Amended Complaint to add the identified persons as defendants.

3. All claims against Dr. Berdecia are DISMISSED with prejudice.

4. All claims seeking criminal sanctions against the Defendants are DISMISSED with prejudice.

DATED this 3rd day of April, 2018.



Brian Morris
United States District Court Judge